

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Ricky R. Schuh,)	
)	
Plaintiff,)	ORDER DENYING MOTION TO
)	COMPEL WITHOUT PREJUDICE
vs.)	
)	
Burleigh County, Sgt. Eric Howe,)	
Chaplain Greg Carr, Jeff Olson, Cameron)	
Bott, Wyyette Parisien,)	Case No. 1:20-cv-142
)	
Defendants.)	

On November 2, 2022, Plaintiff Ricky R. Schuh (“Schuh”) filed a “Motion to Compel Disclosure pursuant with Rule 26(A)(i)(ii)(iii)(iv).” (Doc. No. 108). He asserts that Defendants have not complied with the requirements of Rule 26 of the Federal Rules of Civil Procedure and have failed to produce: insurance contracts; the identities of witnesses; and “a paper copy of all official capacity emails, of Sgt. Eric Howe, Chaplain Greg Carr, Jeff Olson, Cameron Bott, Wyyette Parisien, from dates between 07/01/2020 to present day.” (Id.) (errors in original). He further asserts that the parties have attempted to confer and “have discussed the nature and basis of claims and defenses, as well as the possibility for a prompt settlement or resolution of the case.” (Id.). He requests an order from the court compelling Defendants to produce the aforementioned materials. He adds that “this is not a discovery request.” (Id.).

Motions to compel disclosures or discovery are subject to Rule 37(a) of the Federal Rules of Civil Procedure and D.N.D. Civil Local Rule 37.1. Rule 37(a) of the Federal Rules of Civil Procedure provides that a party may file a motion to compel disclosure or discovery after the party “has in good faith conferred or attempted to confer with the person or party failing to make

disclosure or discovery in an effort to obtain it without court action.” Fed. R. Civ. P. 37(a)(1). Local Civil Rule 37.1 obligates parties to meet and confer and thereafter participate in a telephonic conference with the magistrate judge before filing a motion to compel. Specifically, it provides:

(A) OBLIGATION TO CONFER

The parties may not file a discovery motion (e.g., a motion to compel discovery, motion for sanctions, or motion for protective order) until the parties have conferred, either in person or by telephone, for the purpose of making a reasonable, good faith effort to resolve the dispute without involving the court. A written demand for relief without more is not sufficient; the moving party must make a reasonable effort to confer, and the opposing party must make a reasonable effort to participate.

(B) OBLIGATION FOR TELEPHONIC CONFERENCE WITH MAGISTRATE JUDGE

In addition to the requirements set forth in D.N.D. Civ. L.R. 37.1 (A), the parties must not file a discovery motion until the parties have participated in a telephonic conference with the assigned magistrate judge, unless otherwise ordered by the court.

D.N.D. Civ. L.R. 37.1(A) and (B).

Pursuant to the aforementioned rules, this court will not entertain a motion to compel disclosures or discovery until after the parties have conferred amongst themselves and also participated in a conference with the court. Schuh did not participate in a telephone conference with the court before filing his motion to compel. Consequently, his motion to compel is premature.

The court appreciates that Schuh is proceeding in this matter pro se. The fact that Schuh is proceeding pro se does not excuse his noncompliance with the applicable rules, however. See Soliman v. Johanns, 412 F.3d 920, 922 (8th Cir. 2005) (“Even pro se litigants must comply with court rules and directives.”); Schooley v. Kennedy, 712 F.2d 372, 373 (8th Cir. 1983) (“[P]ro se litigants are not excused from compliance with relevant rules of the procedural and substantive law.”).

Accordingly, Schuh's "Motion to Compel Disclosure pursuant with Rule 26(A)(i)(ii)(iii)(iv)" (Doc. No. 108) is **DENIED** without prejudice. The court shall schedule a status conference with the parties on December 14, 2022, at 10:00 AM by telephone to discuss Schuh's concerns regarding disclosures and discovery. To participate in the conference, the parties should call (877) 810-9415 and enter access code 8992581.

IT IS SO ORDERED.

Dated this 1st day of December, 2022.

/s/ Clare R. Hochhalter
Clare R. Hochhalter, Magistrate Judge
United States District Court